

**Title 14 Board of Forestry and Fire Protection**

[Notice circulated June 27, 2000]

**15-DAY NOTICE**  
**OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS**  
**AND PUBLIC HEARING**

**Plan Submitter, RPF and LTO Responsibilities, 2000**

**PUBLIC HEARING**

Pursuant to the requirements of Government Code § 11346.8(c), and Title 1 of the California Code of Regulations § 44; the Board of Forestry and Fire Protection (Board) is providing notice of changes made to proposed regulations listed below which were the subject of a regulatory hearing April 5, 2000. These changes are being proposed in response to comments received regarding the proposed changes to the Forest Practice Rules. The Board will hold a public hearing to adopt final rule language. The public hearing is to be held 8:00 a.m. on Thursday, July 13, 2000, at the Ukiah Valley Conference Center, 200 South School Street, Ukiah, California.

The Board of Forestry and Fire Protection is providing notice of changes made to proposed regulations affecting Title 14 of the California Code of Regulations (14 CCR) Sections:

<b>§ 1035</b>	<b>Plan Submitter Responsibility</b>
<b>§ 1035.1</b>	<b>Registered Professional Forester Responsibility</b>
<b>§ 1035.3</b>	<b>Licensed Timber Operator Responsibilities</b>
<b>§ 1092.11</b>	<b>PTHP Submitter Responsibility</b>
<b>§ 1092.12</b>	<b>Registered Professional Forester Responsibility</b>
<b>§ 1092.14</b>	<b>Licensed Timber Operator Responsibility</b>

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in this notice. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements.

**WRITTEN COMMENT PERIOD**

Any person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Board Office no later than 5:00 p.m. on Wednesday, July 12, 2000. After this date and time, to be considered, interested persons must present oral or written comments directly to the Board during the public hearing, noticed above. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

**Submit written comments to:**

Board of Forestry and Fire Protection  
Attn: Dennis O. Hall  
Regulations Coordinator  
P.O. Box 944246  
Sacramento, CA 94244-2460

**Comments can also be delivered in person to the following address:**

Board of Forestry and Fire Protection  
Attn: Dennis O. Hall  
Regulations Coordinator  
1416 Ninth Street  
Sacramento, CA 95814

**Comments may be faxed to the Board's office using the following number:**

(916) 653-0989

**UPDATED INFORMATIVE DIGEST/  
NON-CONTROLLING PLAIN ENGLISH SUMMARY**

• Change made to **14 CCR § 1035**                      **Plan Submitter Responsibility**

The Board proposes to modify the rule language under subsection (d) for clarity. This subsection has been presented in a different format. Additionally, the Board chose to add a phrase to clearly indicate that the advice on "other associated regulations" provided to the LTO by the RPF is to be specific to timber operations.

Furthermore, the Board proposes to modify the rule language under this subsection to include an option for the plan submitter to authorize the timberland owner to provide advice to the LTO in recognition of the landowner exception provided in the Public Resources Code § 757. The reference citations have also been modified to reflect this change.

• Change made to **14 CCR § 1035.1 Registered Professional Forester Responsibility**

The Board proposes to modify the rule language under this section of the rules for clarity. The Board determined that the language did not clearly differentiate between the responsibilities of the RPF preparing the plan and the responsibilities of the RPF that is retained by the plan submitter to provide professional advice throughout timber operations. The Board chose to reformat the text in order to clarify the differing responsibilities and chose to add language specifically indicating the responsible RPF.

The Board also added language under this section to clarify the extent of responsibility an RPF will have regarding the disclosure of potential conflicts of interest, how such disclosure may be kept confidential, and how such confidential disclosure shall be certified in the plan.

Additionally, based upon public comment, the Board chose to delete the proposed language that would allow the plan submitter to authorize the RPF to stop work on a plan to remediate or prevent resource damage or deviation from the terms of a plan. However, the Board chose to add language that is intended to clarify the RPF's role in providing advice to an LTO. This modification of the proposed rules would clarify that an RPF may choose to withdraw from a plan if the RPF's advice is not effective in facilitating the on-site operations to remediate or prevent resource damage or deviation from the terms of a plan. This modification would also require the RPF to provide written notification to various persons of the RPF's intent to withdraw from the plan, clearly indicating that work on the plan could not continue until another RPF accepts responsibility for providing on-site advice to the LTO.

- Change made to **14 CCR § 1035.3 Licensed Timber Operator Responsibilities**

The Board proposes to modify the rule language under this section of the rules for clarity. The Board recognized that one or more LTOs could be assigned to implement various activities prescribed in a plan in differing areas and/or at differing times throughout the "life" of a plan. Therefore, the Board chose to add language to clarify the responsibilities of each "affected" LTO in implementing the terms of the plan. Additionally, the Board chose to add clarifying language to indicate when an LTO would be required to provide signed agreement to abide by the terms of the plan.

The Board additionally recognized that the requirement that the plan submitter would retain an RPF to provide advice to the LTOs would require additional modifications to the proposed rules to facilitate communication between the responsible RPF and the affected LTO. The Board chose to add a subsection (h), which clarifies the responsibilities of the LTO in establishing communication with the RPF prior to critical periods associated with the implementation of a plan.

The Board also revised subsection (g) in order to make this section consistent with the modifications proposed under 14 CCR § 1035.1(e)(2) regarding work stoppage. The phrase regarding an on-site contact's authorization "to stop active timber operations, if requested to do so by the RPF" was deleted from this subsection.

- Change made to **14 CCR § 1092.11 PTHP Submitter Responsibility**

The Board proposes to modify the rule language under subsection (d) for clarity. This subsection has been presented in a different format. Additionally, the Board chose to add a phrase to clearly indicate that the advice on "other associated regulations" provided to the LTO by the RPF is to be specific to timber operations.

Furthermore, the Board proposes to modify the rule language under this subsection to include an option for the plan submitter to authorize the timberland owner to provide advice to the LTO in recognition of the landowner exception provided in the Public Resources Code § 757. The reference citations have also been modified to reflect this change.

In addition, the Board determined that specific regulations regarding the submitter's responsibility for disclosure of pertinent archaeological information to the LTO had not been included under this section of the rules. Therefore, this regulation was not consistent with other regulations under the Forest Practice rules (ref. 14 CCR §§ 895.1, 929.2, 949.2, 969.2, and 1035). The Board chose to add language to this section to make the rules consistent with the requirements of other sections.

- Change made to **14 CCR § 1092.12**      **Registered Professional Forester Responsibility**

The Board proposes to modify the rule language under this section of the rules for clarity. The Board determined that the language did not clearly differentiate between the responsibilities of the RPF preparing the plan and the responsibilities of the RPF that is retained by the plan submitter to provide professional advice throughout timber operations. The Board chose to reformat the text in order to clarify the differing responsibilities and chose to add language specifically indicating the responsible RPF.

The Board also added language under this section to clarify the extent of responsibility an RPF will have regarding the disclosure of potential conflicts of interest, how such disclosure may be kept confidential, and how such confidential disclosure shall be certified in the plan. Additionally, based upon public comment, the Board chose to delete the proposed language that would allow the plan submitter to authorize the RPF to stop work on a plan to remediate or prevent resource damage or deviation from the terms of a plan. However, the Board chose to add language that is intended to clarify the RPF's role in providing advice to an LTO. This modification of the proposed rules would clarify that an RPF may choose to withdraw from a plan if the RPF's advice is not effective in facilitating the on-site operations to remediate or prevent resource damage or deviation from the terms of a plan. This modification would also require the RPF to provide written notification to various persons of the RPF's intent to withdraw from the plan, clearly indicating that work on the plan could not continue until another RPF accepts responsibility for providing on-site advice to the LTO.

- Change made to **14 CCR § 1092.14**      **Licensed Timber Operator Responsibility**

The Board proposes to modify the rule language under this section of the rules for clarity. The Board recognized that one or more LTOs could be assigned to implement various activities prescribed in a plan in differing areas and/or at differing times throughout the "life" of a plan. Therefore, the Board chose to add language to clarify the responsibilities of each "affected" LTO in implementing the terms of the plan. Additionally, the Board chose to add clarifying language to indicate when an LTO would be required to provide signed agreement to abide by the terms of the plan.

The Board additionally recognized that the requirement that the plan submitter would retain an RPF to provide advice to the LTOs would require additional modifications to the proposed rules to facilitate communication between the responsible RPF and the affected LTO. The Board chose to add a subsection (h), which clarifies the responsibilities of the LTO in establishing communication with the RPF prior to critical periods associated with the implementation of a plan.

The Board also revised subsection (g) in order to make this section consistent with the modifications proposed under 14 CCR § 1092.12(g)(2) regarding work stoppage. The phrase regarding an on-site contact's authorization "to stop active timber operations, if requested to do so by the RPF" was deleted from this subsection.

In addition, the Board determined that specific regulations regarding the LTO's responsibility for inquiring about measures contained in the archaeological addendum had not been included under this section of the rules. Therefore, this regulation was not consistent with other regulations under the Forest Practice Rules (ref. 14 CCR §§ 895.1, 929.2, 949.2, 969.2, and 1035.3). The Board chose to add language to this section to make the rules consistent with the requirements of other sections.

There have been no other changes in the laws pertaining to the proposed action, or to the effect of the proposed regulations from the laws and effects described in the previous *Notice of Proposed Rulemaking*.

### **CONTACT PERSON**

Questions about the proposed action, copies of the proposed text of the regulations, the initial statement of reasons, and modified text of regulations, may be directed to:

Board of Forestry and Fire Protection  
Attn: Dennis O. Hall  
Regulations Coordinator  
P.O. Box 944246  
Sacramento, CA 94244-2460  
Telephone: (916) 653-9418 or,  
(916) 653-8007  
Fax: (916) 653-0989

### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

A copy of the express terms of the proposed regulation using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion is available on request. A copy of the express terms of the proposed regulation is also available on the Board of Forestry and Fire Protection web page:

**[http://www.fire.ca.gov/bof/board/board\\_proposed\\_rule\\_packages.html](http://www.fire.ca.gov/bof/board/board_proposed_rule_packages.html)**

Additionally, all the information considered as the basis for this proposed regulation (i.e., rulemaking file) is available to the public at the Board's office listed above.

### **TEXT OF MODIFIED REGULATIONS**

In order to clearly indicate those sections proposed for change in this 15-day notice, the text is presented in the following format:

The Board has illustrated changes to the original text in the following manner:

- language originally proposed is UNDERLINED
- deletions to existing language are shown with ~~STRIKETHROUGH~~
- deletions from the language originally proposed are shown with ~~UNDERLINE AND~~  
~~STRIKETHROUGH~~
- additions to the originally proposed language is DOUBLE-UNDERLINED

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Dennis O. Hall  
Regulations Coordinator  
Board of Forestry and Fire Protection